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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,106	07/22/2003	Tetsujiro Kondo	450100-04665	1185

7590 01/11/2007
FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

EXAMINER

NGUYEN, CINDY

ART UNIT	PAPER NUMBER
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2161

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/625,106	Applicant(s) KONDO ET AL.	
	Examiner Cindy Nguyen	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-23 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/31/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/28/06 has been entered.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 10/31/06. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klopfenstein (20030051247) in view of Wang et al. (US 20020188947) hereafter Wang.

Regarding claim 1, Klopfenstein discloses: a control system comprising a control apparatus and an information processing apparatus (paragraph 0029, Klopfenstein), wherein the control apparatus comprises receiving(106, fig. 1) means for receiving electronic program guide information (paragraph 0018, Klopfenstein) transmitted from the information processing apparatus(112, fig. 1);

storage means for storing the electronic program guide information received by the receiving means (stores the received information in a memory, paragraph 0018, Klopfenstein);

acquisition means for, on the basis of the electronic program guide information stored in the storage means (220, fig. 2), acquiring supplemental information (genre of program) which is associated with a program processed by the information processing apparatus and which indicates a feature of the program (paragraph 0024, Klopfenstein) ;

the information processing apparatus comprises transmission means for transmitting the electronic program guide information to the control apparatus (paragraphs 0016-0018, Klopfenstein);

However, Klopfenstein didn't disclose: calculation means for calculating an occurrence count of each item in the supplemental information as a function of a weighting factor of each item, wherein the weighting factor is dependent upon a timing of user actions, selecting means for selecting a particular program on the basis of the supplemental information and the occurrence count of each item in the supplemental information and control means for controlling the information processing apparatus so as to record or play back the program selected by the selection means, and the information processing apparatus comprises transmission means for transmitting the electronic program guide information to the control apparatus; and record/playback means for recording or playing back the program under the control of the control apparatus. On the other hand, Wang discloses: calculation means for calculating an occurrence count of each item in the supplemental information as a function of a weighting factor of each item (paragraphs 0065-0081, Wang) wherein the weighting factor is dependent upon a timing of user actions (0082, 0084, Wang), selecting means for selecting a particular program on the basis of the supplemental information and the occurrence count of each item in the supplemental information (0085-0086, Wang) and control means for controlling the information processing apparatus so as to record or play back the program selected by the selection means (paragraph 0087, Wang), and record/playback means for recording or playing back the program under the control of the control apparatus (0087, Wang). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include calculation means for calculating an occurrence count of each item in the supplemental information as a function of a weighting factor of each item, selecting means for selecting a particular program on the basis of the supplemental information and the occurrence count of each

item in the supplemental information controlling record/playback program in the system as taught by Wang, in the system of Klopfenstein. The motivation being to provide a program combined with the viewing habits data in that user's profile, the viewing habits data in the user weight counters in a user profile at the completion of each time period the user watches a program having those characteristics.

Regarding claims 2, 3, 6-8, all the limitations of these claims have been noted in the rejection of claim 1 above. Therefore, they are rejected as above.

Allowable Subject Matter

Claims 4, 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: the prior art of record failed to disclose: make obvious, or otherwise suggest a control apparatus comprising management means for managing the occurrence count of each item in the supplemental information, wherein the selection means selects program regarded by the management means as having a high occurrence count as recited in claim 4.

The dependent claim 5, being further limiting to the independent claim 4 definite and fully enabled by the specification are also allowed.

Claims 9-23 are allowed in light of the applicant arguments and in light of the prior art made of record.

The following is an examiner's statement of reasons for allowance: the prior art of record failed to disclose: make obvious, or otherwise suggest A control apparatus for controlling an information processing apparatus, comprising: selection means for allowing a specific user, with identification, to select from a list of commands, particular process and from a list of occurrences, a timing of performing the particular process wherein the identification information includes a weighting factor which is dependent upon a timing of user actions as recited in claims 9, 14, 15, 16.

The prior art of record failed to disclose: make obvious, or otherwise suggest control apparatus, a method and a computer readable storage medium and a program executed by a computer for controlling an information processing apparatus, comprising: presentation means for presenting information to a user to prompt a user to select whether the same process as the process described in the operation history stored in the storage means is performed by the information processing apparatus when the timing condition described in the operation history is met, wherein the operation stored in the operation history is dependent on a weighting factor which is dependent on a timing of user actions as recited in claims 17 , 21, 22 and 23.

The dependent claims 10-12, 18-20, being further limiting to the independent claims 9 and 17 definite and fully enable by the specification are also allowed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gaffin Jeffrey can be reached on 571-272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CN
Cindy Nguyen
January 6, 2007

Etienne P. Mause
Primary Examiner